

## SUPPORTING STATEMENT

### 30 C.F.R. 45.3, Identification of Independent Contractors

#### A. JUSTIFICATION

**1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.**

Independent contractors performing services or construction at mines are subject to the Federal Mine Safety and Health Act of 1977 (Mine Act) and are responsible for compliance with the provisions of the Mine Act and its regulations. If the contractor does not have an identification number, it will be assigned one by the Mine Safety and Health Administration (MSHA) the first time it is cited for a violation of the Mine Act or when one is requested.

Title 30, C.F.R. 45.3 provides that independent contractors may voluntarily obtain a permanent identification number by submitting to MSHA their trade name, business address, telephone number, an estimate of the annual hours worked by the contractor on mine property for the previous calendar year, and the address of record for service of documents upon the contractor.

Independent contractors may vary in size, the type of work performed, and the time spent working at mine sites. They may be primary contractors or subcontractors. They may be engaged in every type of work from new mine construction to minor repairs. They may do all their work at mines, or they may work at a mine only one time. Independent contractors may also move from mine to mine or may even be present at several mines at once.

**2. Indicate how, by whom, and for what purpose the information is to be used. Except for new collections, indicate the actual use the agency has made of the information received from the current collection.**

MSHA uses the information to issue a permanent MSHA identification number to the independent contractor. This number allows MSHA to keep track of a contractor's violation history so that appropriate civil penalties can be assessed for violations of the Mine Act or its accompanying mandatory health and safety standards.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.**

No improved information technology has been identified that would reduce the burden, however in order to comply with the Government Paperwork Elimination Act contractors may apply for ID numbers using the optional electronic form found on MSHA's Website.

**4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purpose(s) described in Item 2 above.**

While the information collection requirements under 30 C.F.R. 45.3 appear on their face to be similar to those found under 30 C.F.R. 45.4, the information is collected for different reasons. Under 45.3, an independent contractor is requested to provide MSHA with certain information so that MSHA can issue an identification number in order to keep track of the contractor's violation history and civil penalty assessments. This information collection is strictly voluntary. Under 45.4, a mine operator is required to obtain similar information from the contractor so that the operator is kept informed of the contractor's business location and contact person in the event of an accident, injury, or other emergency.

**5. If the collection of information impacts small businesses or other small entities, describe the methods used to minimize burden.**

MSHA's enforcement policies are applied uniformly to production operators and independent contractors, regardless of size. Title 30, C.F.R. 45.3, however, was designed with small businesses in mind by making the application for an identification number voluntary. This information collection does not have a significant economic impact on small businesses or other small entities.

**6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.**

Independent contractors need only apply one time for an identification number.

**7. Explain any special circumstances that would cause an information collection to be conducted in a manner:**

- requiring respondents to report information to the agency more often than quarterly;
- requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;
- requiring respondents to submit more than an original and two copies of any document;
- requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;
- in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;
- requiring the use of a statistical data classification that has not been reviewed and approved by OMB;

- **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
- **requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

This collection of information is consistent with the guidelines in 5 C.F.R. 1320.5.

**8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 C.F.R. 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to the comments. Specifically address comments received on cost and hour burden.**

**Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.**

**Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years -- even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.**

MSHA will publish a 60-day pre-clearance FEDERAL REGISTER notice soliciting public comments regarding the extension of this information collection.

**9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

MSHA has made no decision to provide payments or gifts to the respondents identified by this collection.

**10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.**

There is no personal information requiring confidentiality.

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.**

There are no questions of a sensitive nature.

**12. Provide estimates of the hour burden of the collection of information.**

MSHA's records show that there were 2,229 identification numbers issued to independent contractors in 2001. The breakdown is as follows:

	<u>Coal</u>	<u>Metal and Nonmetal</u>
Contractors working at mine (Traditional Filing)	773	996
Assigned by MSHA as a result of violations issued by compliance specialists	45	197
On-line filing	<u>47</u>	<u>171</u>
Total	865	1364

MSHA estimates that it takes approximately 8 minutes (0.13 hour) for each contractor to complete the application for **either** traditional **or** on-line filing to MSHA to obtain an identification number. It is estimated that it takes approximately 4 minutes (0.067 hour) to obtain the information from each contractor for an identification number to be assigned as a result of a citation being issued by a MSHA inspector. This includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed and completing and reviewing the collection of information.

**METAL AND NONMETAL:**

1167 traditional and on line filings x 0.13 hours	=	152 burden hours
197 filings resulting from violations x 0.067 hours	=	<u>13</u> burden hours
		165 burden hours

**COAL**

820 traditional and on line filings x 0.13 hours	=	107 burden hours
45 filings resulting from violations x 0.067 hours	=	<u>3</u> burden hours
		110 burden hours

**Total Burden Hours = 275**

The estimated burden cost to contractors for providing the contractor identification information is:

**METAL AND NONMETAL:**

165 burden hours x \$18.44	=	\$3,043
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**COAL**

110 burden hours x \$19.58	=	\$2,154
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**Total Burden Hour Cost = \$5,197**

Above figures are based upon a salary for a coal clerical person of \$19.58 per hour and \$18.44 for a metal and nonmetal mine clerical person (from the U.S. Metal & Industrial Mineral Mine Salaries, Wages, & Benefits - 2001 Survey Results and U.S. Coal Mine Salaries, Wages, & Benefits - 2001 Survey Results).

**13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14.)**

- The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.
- If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.
- Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

The information required by this standard for submittal to MSHA consists of four items: 1) trade name and business address; 2) an address of record for service of documents; 3) telephone number for contact during business hours; and 4) an estimate of the number of hours contractor works on mine property. In addition, the electronic form incorporates information required under 30 CFR 45.4 and approved by OMB (1219-0040). All of the above are readily available (company letterhead, invoice, etc.) and require little or no research by the contractor. The information is submitted without forms through normal correspondence or via MSHA's Website.

Postage costs for those contractors who choose to mail their information to MSHA are estimated as follows:

1769 (773 + 996) written (traditional) requests for identification  
 number x \$0.34 postage per request = \$601

There are no postage costs associated with on-line filing or identification numbers being assigned as a result of citations being issued by MSHA inspectors.

**14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not**

**have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.**

No Federal inspection costs have been associated specifically for this information collection. The review/inspection of independent contractors working on mine property is just one aspect of an annual inspection. Under Section 103(a) of the Mine Act, complete inspections are required four times a year for underground mines and twice a year for surface operations.

An independent contractor is not required to have an identification number for metal and nonmetal mines unless they are engaged in the following conditions:

1. Mine development, including shaft & slope sinking;
2. Construction/reconstruction of mining facilities;
3. Demolition of mine facilities;
4. Construction of dams;
5. Excavation or earthmoving activities involving mobile equipment;
6. Equipment installation, such as crusher and mills;
7. Equipment service or repair of equipment on mine property for a period exceeding five consecutive days at a particular mine;
8. Material handling within mine property; including haulage of coal, ore, refuse, etc., unless for the sole purpose of direct removal from or delivery to mine property; and
9. Drilling and blasting.

However, if during an inspection a contractor is cited for a violation of safety or health regulations, the contractor must obtain an identification number. The cost to the Government to actually assign an identification number is estimated to be negligible.

**15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.**

Respondents/Responses: There has been an increase of 542 Respondents/Responses (1,687 to 2,229). There was an increase in the number ID numbers issued using the traditional and on-line filing methods and a decrease in the number issued as a result of violations. The net result was an increase.

Hours: There has been a slight increase of 84 hours (191 to 275). This increase is a direct result of the increase in Respondents/Responses.

Costs: There has been no change in cost. Although there had been an increase in postage, the net affect was negligible.

**16. For collections of information whose results are planned to be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.**

MSHA does not collect the contractor identification information for publication. It is used primarily for identifying contractors subject to enforcement actions and tracking of those enforcement actions. There are, however, incidental uses made of the information, such as compiling mailing lists for recipients of Agency publications (Safety Alerts, Policy Memoranda, Special Emphasis Accident

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Reduction Programs, etc.). MSHA also uses the information in internal reports and evaluations of enforcement activities and those reports are occasionally published but without reference to individual contractor identities.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

There are no forms on which to display the expiration date.

**18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.**

There are no certification exceptions identified with this information collection.

**B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

1. Describe (including numerical estimate) the potential respondent universe and any sampling or other respondent selection method to be used. Data on the number of entities (e.g., establishments, State and local government units, households, or persons) in the universe covered by the collection and in the corresponding sample are to be provided in tabular form for the universe as a whole and for each of the strata in the proposed sample. Indicate expected response rates for the collection as a whole. If the collection had been conducted previously, include the actual response rate achieved during the last collection.

The collection of this information does not employ statistical methods.

2. Describe the procedures for the collection of information including:

- Statistical methodology for stratification and sample selection,
- Estimation procedure,
- Degree of accuracy needed for the purpose described in the justification,
- Unusual problems requiring specialized sampling procedures, and
- Any use of periodic (less frequently than annual) data collection cycles to reduce burden.

3. Describe methods to maximize response rates and to deal with issues of non-response. The accuracy and reliability of information collected must be shown to be adequate for intended uses. For collections based on sampling, a special justification must be provided for any collection that will not yield "reliable" data that can be generalized to the universe studied.

4. Describe any tests of procedures or methods to be undertaken. Testing is encouraged as an effective means of refining collections of information to minimize burden and improve utility. Tests must be approved if they call for answers to identical questions from 10 or more respondents. A proposed test or set of tests may be submitted for approval separately or in combination with the main collection of information.

5. Provide the name and telephone number of individuals consulted on statistical aspects of the design and the name of the agency unit, contractor(s), grantee(s), or other person(s) who will actually collect and/or analyze the information for the agency.